

AMENDED IN ASSEMBLY APRIL 9, 2014

AMENDED IN ASSEMBLY MARCH 10, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1673

Introduced by Assembly Member Garcia

February 12, 2014

An act to amend Section 82015 of the Government Code, relating to the Political Reform Act of 1974.

LEGISLATIVE COUNSEL'S DIGEST

AB 1673, as amended, Garcia. Political Reform Act of 1974: contributions.

Existing law, the Political Reform Act of 1974, provides for the comprehensive regulation of campaign financing, including requiring the reporting of campaign contributions and expenditures and imposing other reporting and recordkeeping requirements on campaign committees. “Contribution” is defined for purposes of the act as a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment, except to the extent that full and adequate consideration is received, unless it is clear from the surrounding circumstances that it is not made for political purposes. The definition does not include a payment made by an occupant of a home or office for costs related to any meeting or fundraising event held in the occupant’s home or office if the costs for the meeting or fundraising event are \$500 or less.

This bill would revise the definition of “contribution” to exclude a lobbyist, lobbying firm, or lobbyist employer from the exemption authorizing a payment of \$500 or less by the occupant of a home *or*

office for costs related to a meeting or fundraising event at the home *or office*, thereby making those payments by a lobbyist, *lobbying* firm, or lobbyist employer a contribution for purposes of the act.

A violation of the act's provisions is punishable as a misdemeanor. By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act's purposes upon a $\frac{2}{3}$ vote of each house and compliance with specified procedural requirements.

This bill would declare that it furthers the purposes of the act.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 82015 of the Government Code is
2 amended to read:

3 82015. (a) "Contribution" means a payment, a forgiveness of
4 a loan, a payment of a loan by a third party, or an enforceable
5 promise to make a payment, except to the extent that full and
6 adequate consideration is received, unless it is clear from the
7 surrounding circumstances that it is not made for political purposes.

8 (b) (1) A payment made at the behest of a committee as defined
9 in subdivision (a) of Section 82013 is a contribution to the
10 committee, unless full and adequate consideration is received from
11 the committee for making the payment.

12 (2) A payment made at the behest of a candidate is a contribution
13 to the candidate, unless the criteria in either subparagraph (A) or
14 (B) are satisfied:

15 (A) Full and adequate consideration is received from the
16 candidate.

17 (B) It is clear from the surrounding circumstances that the
18 payment was made for purposes unrelated to his or her candidacy
19 for elective office. The following types of payments are presumed

1 to be for purposes unrelated to a candidate's candidacy for elective
2 office:

3 (i) A payment made principally for personal purposes, in which
4 case it may be considered a gift under the provisions of Section
5 82028. Payments that are otherwise subject to the limits of Section
6 86203 are presumed to be principally for personal purposes.

7 (ii) A payment made by a state, local, or federal governmental
8 agency or by a nonprofit organization that is exempt from taxation
9 under Section 501(c)(3) of the Internal Revenue Code.

10 (iii) A payment not covered by clause (i), made principally for
11 legislative, governmental, or charitable purposes, in which case it
12 is neither a gift nor a contribution. However, payments of this type
13 that are made at the behest of a candidate who is an elected officer
14 shall be reported within 30 days following the date on which the
15 payment or payments equal or exceed five thousand dollars
16 (\$5,000) in the aggregate from the same source in the same
17 calendar year in which they are made. The report shall be filed by
18 the elected officer with the elected officer's agency and shall be
19 a public record subject to inspection and copying pursuant to
20 ~~subdivision (a) of~~ Section 81008. The report shall contain the
21 following information: name of payor, address of payor, amount
22 of the payment, date or dates the payment or payments were made,
23 the name and address of the payee, a brief description of the goods
24 or services provided or purchased, if any, and a description of the
25 specific purpose or event for which the payment or payments were
26 made. Once the five-thousand-dollar (\$5,000) aggregate threshold
27 from a single source has been reached for a calendar year, all
28 payments for the calendar year made by that source shall be
29 disclosed within 30 days after the date the threshold was reached
30 or the payment was made, whichever occurs later. Within 30 days
31 after receipt of the report, state agencies shall forward a copy of
32 these reports to the Commission, and local agencies shall forward
33 a copy of these reports to the officer with whom elected officers
34 of that agency file their campaign statements.

35 (C) For purposes of subparagraph (B), a payment is made for
36 purposes related to a candidate's candidacy for elective office if
37 all or a portion of the payment is used for election-related activities.
38 For purposes of this subparagraph, "election-related activities"
39 shall include, but are not limited to, the following:

1 (i) Communications that contain express advocacy of the
2 nomination or election of the candidate or the defeat of his or her
3 opponent.

4 (ii) Communications that contain reference to the candidate's
5 candidacy for elective office, the candidate's election campaign,
6 or the candidate's or his or her opponent's qualifications for
7 elective office.

8 (iii) Solicitation of contributions to the candidate or to third
9 persons for use in support of the candidate or in opposition to his
10 or her opponent.

11 (iv) Arranging, coordinating, developing, writing, distributing,
12 preparing, or planning of any communication or activity described
13 in clause (i), (ii), or (iii).

14 (v) Recruiting or coordinating campaign activities of campaign
15 volunteers on behalf of the candidate.

16 (vi) Preparing campaign budgets.

17 (vii) Preparing campaign finance disclosure statements.

18 (viii) Communications directed to voters or potential voters as
19 part of activities encouraging or assisting persons to vote if the
20 communication contains express advocacy of the nomination or
21 election of the candidate or the defeat of his or her opponent.

22 (D) A contribution made at the behest of a candidate for a
23 different candidate or to a committee not controlled by the
24 behesting candidate is not a contribution to the behesting candidate.

25 (3) A payment made at the behest of a member of the Public
26 Utilities Commission, made principally for legislative,
27 governmental, or charitable purposes, is not a contribution.
28 However, payments of this type shall be reported within 30 days
29 following the date on which the payment or payments equal or
30 exceed five thousand dollars (\$5,000) in the aggregate from the
31 same source in the same calendar year in which they are made.
32 The report shall be filed by the member with the Public Utilities
33 Commission and shall be a public record subject to inspection and
34 copying pursuant to ~~subdivision (a)~~ of Section 81008. The report
35 shall contain the following information: name of payor, address
36 of payor, amount of the payment, date or dates the payment or
37 payments were made, the name and address of the payee, a brief
38 description of the goods or services provided or purchased, if any,
39 and a description of the specific purpose or event for which the
40 payment or payments were made. Once the five-thousand-dollar

1 (\$5,000) aggregate threshold from a single source has been reached
2 for a calendar year, all payments for the calendar year made by
3 that source shall be disclosed within 30 days after the date the
4 threshold was reached or the payment was made, whichever occurs
5 later. Within 30 days after receipt of the report, the Public Utilities
6 Commission shall forward a copy of these reports to the Fair
7 Political Practices Commission.

8 (c) "Contribution" includes the purchase of tickets for events
9 such as dinners, luncheons, rallies, and similar fundraising events;
10 the candidate's own money or property used on behalf of his or
11 her candidacy other than personal funds of the candidate used to
12 pay either a filing fee for a declaration of candidacy or a candidate
13 statement prepared pursuant to Section 13307 of the Elections
14 Code; the granting of discounts or rebates not extended to the
15 public generally or the granting of discounts or rebates by television
16 and radio stations and newspapers not extended on an equal basis
17 to all candidates for the same office; the payment of compensation
18 by any person for the personal services or expenses of any other
19 person if the services are rendered or expenses incurred on behalf
20 of a candidate or committee without payment of full and adequate
21 consideration.

22 (d) "Contribution" further includes any transfer of anything of
23 value received by a committee from another committee, unless
24 full and adequate consideration is received.

25 (e) "Contribution" does not include amounts received pursuant
26 to an enforceable promise to the extent those amounts have been
27 previously reported as a contribution. However, the fact that those
28 amounts have been received shall be indicated in the appropriate
29 campaign statement.

30 (f) ~~(1)~~ "Contribution" does not include a payment made by an
31 occupant of *a home or* an office for costs related to any meeting
32 or fundraising event held in the occupant's *home or* office if the
33 costs for the meeting or fundraising event are five hundred dollars
34 (\$500) or less *and the occupant is not a lobbyist, lobbying firm,*
35 *or lobbyist employer.*

36 ~~(2) "Contribution" does not include a payment made by an~~
37 ~~occupant of a home who is not a lobbyist, lobbying firm, or lobbyist~~
38 ~~employer for costs related to any meeting or fundraising event~~
39 ~~held in the occupant's home if the costs for the meeting or~~
40 ~~fundraising event are five hundred dollars (\$500) or less.~~

(g) Notwithstanding the foregoing definition of “contribution,” the term does not include volunteer personal services or payments made by any individual for his or her own travel expenses if the payments are made voluntarily without any understanding or agreement that they shall be, directly or indirectly, repaid to him or her.

(h) “Contribution” further includes the payment of public moneys by a state or local governmental agency for a communication to the public that satisfies both of the following:

(1) The communication expressly advocates the election or defeat of a clearly identified candidate or the qualification, passage, or defeat of a clearly identified measure, or, taken as a whole and in context, unambiguously urges a particular result in an election.

(2) The communication is made at the behest of the affected candidate or committee.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 3. The Legislature finds and declares that this bill furthers the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.